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REGISTRATION NO. 13385

DEC 29 1981 - 3 00 PM

INTERSTATE COMMERCE COMMISSION

1-363A148

No.

Date DEC. 29, 1981

Fee \$ 50.00

December 28, 1981

ICC Washington, D. C.

Consolidated Rail Corporation
Transfer and Lease Agreements
dated as of November 13, 1981

Dear Madam:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Consolidated Rail Corporation for filing and recordation counterparts of the following document:

Transfer and Lease Agreement dated as of November 13, 1981, between CBS Inc., as Lessor and Consolidated Rail Corporation, as Lessee in respect of certain rolling stock.

The names and addresses of the parties to the aforementioned agreement are as follows:

(1) Lessor:

CBS Inc.,
51 West 52nd Street,
New York, N.Y. 10019

(2) Lessee:

Consolidated Rail Corporation,
1334 Six Penn Center Plaza,
Philadelphia, Pennsylvania 19104.

COUNSEL
MAURICE T. MOORE

ROSWELL L. GILPATRIC
CARLYLE E. MAW
ALBERT R. CONNELLY
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GEORGE B. TURNER
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Consent of J.H. Hanning

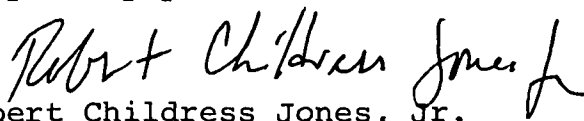
Please file and record the documents referred to in this letter and index each under the names of the Lessor and the Lessee.

The equipment covered by each of the aforementioned documents appears in the Exhibit A attached thereto.

Enclosed is a check for \$50 payable to the Interstate Commerce Commission for the recordation fee for this Transfer and Lease Agreement.

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of each instrument and this transmittal letter for your files. It is requested that the remaining counterparts of the documents be delivered to the bearer of this letter.

Very truly yours,


Robert Childress Jones, Jr.
as Agent for Consolidated
Rail Corporation

Agatha L. Mergenovich,
Secretary,
Interstate Commerce Commission,
Washington, D.C. 20423

Encls.

C1

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

December 29, 1981

Robert Childress Jones, Jr.
Cravath, Swaine & Moore
One Chase Manhattan Plaza
New York, N. Y. 10005

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 12/29/81 at 3:30PM, and assigned recordation number(s) - 13385

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

TRANSFER AND LEASE AGREEMENT

Dated as of November 13, 1981

between

CBS INC.,
as Lessor

and

CONSOLIDATED RAIL CORPORATION,
as Lessee

\$39,135,650 of 5-Year ACRS Equipment

THE TRANSFER AND LEASE PURSUANT TO THIS
AGREEMENT ARE FOR TAX PURPOSES ONLY

13385

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TRANSFER AND LEASE AGREEMENT dated as of November 13, 1981, between CBS INC., a New York corporation, as Lessor, and CONSOLIDATED RAIL CORPORATION, a Commonwealth of Pennsylvania corporation, as Lessee.

The Lessor and the Lessee desire to obtain the benefits of Section 168(f)(8) of the Internal Revenue Code of 1954, as amended. In connection therewith, the Lessor and the Lessee have agreed that for Tax Purposes (as such term is defined below) only the Lessee will transfer to the Lessor the Equipment (as such term is defined below) and the Lessee will lease the Equipment from the Lessor, all on the terms and subject to the conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the agreements hereinafter contained, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS

Unless the context shall otherwise require, capitalized terms used herein shall have the following meanings for all purposes hereof (such definitions to be equally applicable to the singular and plural and the masculine, feminine and neuter forms of the terms defined):

"Closing Date" shall have the meaning specified in Section 2.02.

"Code" shall mean the Internal Revenue Code of 1954, as amended from time to time, or any comparable successor law.

"Default" shall mean any event or condition which with the giving of notice or the lapse of time or both would become an Event of Default.

"Equipment" shall mean the items of property described in Exhibit A hereto.

"Event of Default" shall have the meaning specified in Section 5.06.

"Indemnified Matter" shall have the meaning specified in Section 8.01.

"Indemnified Person" shall mean the Lessor and its affiliates, successors, assigns, directors, officers, agents and servants.

"Lease Term" with respect to each item of Equipment shall have the meaning specified in Section 5.01.

"Lessee" shall mean Consolidated Rail Corporation, a Commonwealth of Pennsylvania corporation, and its successors and, to the extent permitted pursuant to Section 11.08, its assigns hereunder.

"Lessee's Basis" with respect to each item of Equipment shall mean the adjusted basis of Lessee therein for Federal income tax purposes.

"Lessor" shall mean CBS Inc., a New York corporation, and its successors and its assigns hereunder.

"Lien" shall mean any mortgage, pledge, lien, charge, encumbrance, lease, exercise of rights, security interest or claim, other than (i) liens for taxes either not yet due or being contested in good faith by appropriate proceedings, (ii) inchoate materialmen's, mechanics', workmen's, repairmen's, employees' or other like liens arising in the ordinary course of business, (iii) liens created by or resulting from any litigation or legal proceeding that is being contested in good faith by appropriate proceedings and (iv) zoning restrictions, easements, licenses or minor irregularities in title, in each case arising in the ordinary course of business.

"Loss" shall have the meaning specified in Section 10.04.

"Note" shall mean a nonnegotiable, nontransferable, nonrecourse promissory note of the Lessor substantially in the form of Exhibit B hereto.

"Officer's Certificate" shall mean, as to any corporation, a certificate of the President, any Vice President, any Assistant Vice President, the Treasurer or any Assistant Treasurer of such corporation.

"Overdue Rate" shall mean a rate of interest per

annum equal to the greater of (i) the base rate of Citibank, N.A., from time to time in effect plus 3% and (ii) 18%.

"Payment Date" shall mean each date which is an integral multiple of 6 months after the Closing Date, commencing with the date which is 6 months after the Closing Date and ending with the date which is 252 months after the Closing Date.

"Purchase Price" with respect to each item of Equipment shall mean the purchase price therefor specified in Section 2.02, as the same may be adjusted pursuant to Section 2.03.

"Rent" shall have the meaning specified in Section 5.02.

"Tax Purposes" shall mean for purposes of United States Federal taxes on, based on or measured by net income, and for purposes of taxes on, based on or measured by net income imposed by any state, the District of Columbia or any local government or taxing authority in the United States of America which takes the position that a corporation which is treated as the owner of property pursuant to Section 168(f)(8) of the Code shall or may, by election or otherwise, be treated as the owner of such property for the purpose of such taxes imposed by such state, the District of Columbia or local government or taxing authority.

"Taxes" shall mean any and all taxes (including, without limitation, income, gross receipts, franchise, sales, use, ad valorem, value added, personal property (whether tangible or intangible), real property and stamp taxes), levies, license, registration, inspection and permit fees, assessments (including all assessments for public improvements or benefits), water, sewer, gas, heat, electricity, power and other rents, rates and charges, imposts, duties, charges or withholdings of any nature whatsoever, together with any penalties, fines or interest thereon (including, without limitation, any additions to tax because of underpayment of estimated tax).

"Temporary Regulations" shall mean the Temporary Income Tax Regulations Under the Economic Recovery Tax Act of 1981 issued on October 20, 1981, as amended on November 10, 1981.

"Termination Occurrence" shall have the meaning specified in Section 5.03.

"Termination Payment" shall have the meaning specified in Section 5.03.

ARTICLE II

TRANSFER OF EQUIPMENT; PURCHASE PRICE

SECTION 2.01. Characterization as Lease. The Lessor and the Lessee hereby characterize this Agreement as a lease for Tax Purposes only pursuant to which the Lessor is the lessor and owner of the Equipment for Tax Purposes only. The Lessor and the Lessee hereby elect to have the provisions of Section 168(f)(8) of the Code apply with respect to this Agreement.

SECTION 2.02. Closing Date. (a) On the terms and subject to the conditions hereinafter set forth, on November 13, 1981 (the "Closing Date"), (i) the Lessee shall transfer for Tax Purposes only to the Lessor the Equipment and the Lessor shall acquire for Tax Purposes only the Equipment for an aggregate Purchase Price equal to \$39,135,650, the Purchase Price with respect to each item of Equipment being the Lessee's Basis therefor, all as set forth or referred to in Exhibit A hereto, and (ii) the Lessor shall lease for Tax Purposes only to the Lessee each item of the Equipment.

(b) The aggregate Purchase Price payable on the Closing Date shall be paid by the delivery by the Lessor to the Lessee of (i) a Note in a principal amount equal to 70.00% of the aggregate Purchase Price (constituting 70.00% of the Purchase Price of each item of Equipment), payable to the Lessee and dated the Closing Date and (ii) a wire transfer of immediately available funds to the Lessee in an amount equal to 30.00% of the aggregate Purchase Price (constituting 30.00% of the Purchase Price of each item of Equipment). Subject to and as provided in Section 2.04, installments on the Note shall be payable on the 42 Payment Dates next succeeding the date of the Note.

(c) The closing shall be held on the Closing Date at 10 a.m., New York City time, at the offices of Messrs. Cravath, Swaine & Moore, One Chase Manhattan Plaza, New York, New York, or at such other time or place as shall be agreed by the Lessor and the Lessee.

SECTION 2.03. Adjustment to Purchase Price. If at any time after the Closing Date it shall be determined that the adjusted basis of the Lessor for Federal income tax purposes in any item of Equipment shall exceed the Lessee's Basis for such item, the Purchase Price of such item shall be reduced by an amount equal to such excess (the "Excess Basis"). Such reduction shall be effected by (i) delivery by the Lessee to the Lessor of a wire transfer of immediately available funds in an amount equal to 30.00% of the Excess Basis and (ii) the replacement of the Note by a new Note dated the date of the replaced Note but in a principal amount equal to the outstanding principal amount of the replaced Note reduced by an amount equal to 70.00% of the Excess Basis. The installments payable in respect of the new Note and the Rent payable pursuant to Section 5.02 for such item of Equipment shall be appropriately adjusted (as determined by the Lessor) to give effect to such reduction (and the Lessee shall indemnify the Lessor against any resulting Loss to the extent required pursuant to Articles IX and X).

SECTION 2.04. Certain Offsetting Payments. The Lessor and the Lessee hereby agree that all amounts payable pursuant to the Note shall be payable solely out of Rent and Termination Payments. The Lessor shall not in any event have any personal liability to make any payment pursuant to the Note. The Lessee hereby agrees that the obligation of the Lessor to make payments in respect of the Note is conditioned on the simultaneous receipt by the Lessor of the corresponding amount of Rent or Termination Payment. The Lessor hereby agrees that the obligation of the Lessee to make payments of Rent shall terminate when the Note is no longer outstanding, and that the obligation of the Lessee to make payments of Rent and Termination Payments may be set off (in whole, in the case of Rent, and in part, in the case of Termination Payments) by the Lessee against the obligations of the Lessor to make payments in respect of the Note. The Lessor hereby authorizes the Lessee to endorse on Appendix B attached to the Note, on each Payment Date with respect thereto, the information called for on such Appendix. The Lessee hereby agrees to make such endorsement, and the Lessor and the Lessee hereby agree that the endorsement of such information on such Appendix shall constitute conclusive evidence of the payment by the Lessor of the amount then due on the Note and the payment (in whole, in the case of Rent, and in part, in the case of Termination Payments) by the Lessee of the corresponding amount of Rent or Termination Payment then due. Any Termination Payment in respect of any item of Equipment

shall be applicable first, to reimburse the Lessor for any costs and expenses reasonably incurred by the Lessor in connection with the Termination Occurrence resulting in such Termination Payment; second, to the extent set forth in Exhibit C hereto, to reduce pro rata a portion of the principal installments on the Note, all as more fully set forth in Section 5.03, and the remaining amortization on the Note shall be appropriately reduced to give effect thereto; and third, any balance of such Termination Payment shall be paid to and retained by the Lessor. No interest shall be payable on any overdue principal of or interest on the Note, and no rent or interest shall be payable with respect to any overdue Rent or Termination Payment or with respect to any period after the end of the Lease Term for any item of Equipment, except that interest at the Overdue Rate shall be payable with respect to any balance referred to in clause "third" of the preceding sentence for any period after the due date thereof during which such balance remains unpaid.

SECTION 2.05. Lessor's Interest in Equipment.

Subject only to the provisions of Section 5.06 and Articles VI and VII, the Lessor and the Lessee hereby agree that, regardless of whether the Lease Term of all items of Equipment shall have been terminated or a Default or Event of Default shall have occurred hereunder, at all times (i) legal title in and to the Equipment shall remain in the Lessee, (ii) the Lessor will not have any rights with respect to the possession or use of any of the Equipment and (iii) without the written consent of the Lessee, the Lessor will not exercise any rights to gain possession of any of the Equipment, order its sale, transfer, lease or other disposition or in any way utilize any of the Equipment to satisfy any obligations of the Lessee hereunder, it being the intention of the parties hereto that all obligations of the Lessee hereunder are not secured.

SECTION 2.06. Information Returns. The Lessee agrees (i) to provide to the Lessor all the information required pursuant to Section 5c.168(f)(8)-2(a)(3) of the Temporary Regulations (or any comparable successor regulation) with respect to the Lessee and the Equipment on the Closing Date, (ii) to sign the information return prepared by the Lessor pursuant to the Temporary Regulations (or any successor regulations), and to return such return, as signed by the Lessee, to the Lessor no more than five days after its delivery to the Lessee for signature and (iii) to prepare, sign, deliver to the Lessor for signature and file, all in

accordance with the Temporary Regulations (or any successor regulations) the information return required of the Lessee pursuant to the Temporary Regulations (or any successor regulations). The Lessor agrees (i) to provide to the Lessee all the information required pursuant to Section 5c.168(f)(8)-2(a)(3) of the Temporary Regulations (or any comparable successor regulation) with respect to the Lessor on the Closing Date, (ii) to sign the information return prepared by the Lessee pursuant to the Temporary Regulations (or any successor regulations), and to return such return, as signed by the Lessor, to the Lessee no more than five days after its delivery to the Lessor for signature and (iii) to prepare, sign, deliver to the Lessee for signature and file, all in accordance with the Temporary Regulations (or any successor regulations) the information return required of the Lessor pursuant to the Temporary Regulations (or any successor regulations).

ARTICLE III

REPRESENTATIONS AND WARRANTIES

SECTION 3.01. Representations and Warranties of the Lessee. The Lessee represents and warrants to the Lessor as follows:

(a) The Lessee is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania and has all requisite power and authority, corporate or other, to enter into and perform its obligations under this Agreement. This Agreement has been duly authorized, executed and delivered by the Lessee and, assuming due authorization, execution and delivery thereof by the Lessor, constitutes a legal, valid and binding agreement, enforceable against the Lessee in accordance with its terms except as enforceability may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally.

(b) Except as described in an Appendix to the opinion referred to in Exhibit D hereto, there are no actions, suits or proceedings pending or (to the best of the knowledge of the Lessee) threatened against or affecting the Lessee or any property rights of the Lessee which, if determined adversely to the Lessee, would materially and adversely affect the ability of the Lessee to perform its obligations

under this Agreement; and the Lessee is not in default with respect to any order or decree of any court or governmental instrumentality which would materially and adversely affect the ability of the Lessee to perform its obligations under this Agreement.

(c) None of the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby or the fulfillment of, or compliance with, the terms and provisions hereof will conflict with, or result in a breach of, the terms, conditions or provisions of (i) the charter or by-laws of the Lessee, (ii) any contractual obligation (other than the Financing Agreement dated May 12, 1979, between the Lessee and the United States Railway Association, with respect to which the Lessee has duly obtained the consent of the Board of Directors of the United States Railway Association) to which the Lessee is a party or by which it may be bound or to which its property or that of any of its subsidiaries may be subject or (iii) any law or regulation or any order or decree of any court or governmental instrumentality. The Lessee is not in default, and no event or condition has occurred which with the giving of notice or lapse of time or both would be a default, under any of the terms, conditions or provisions of any contractual obligation to which the Lessee is a party or by which it may be bound or to which its property or that of any of its subsidiaries may be subject except the Financing Agreement dated May 12, 1979, between the Lessee and the United States Railway Association, in each case which would materially and adversely affect the ability of the Lessee to perform its obligations hereunder.

(d) The Lessee has furnished to the Lessor the consolidated balance sheets of the Lessee as of December 31, 1980 and as of September 30, 1981, and the related consolidated statements of income for the periods then ended. All such financial statements have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods covered thereby. Such financial statements present fairly the financial condition of the Lessee as of their respective dates and the results of its operations and changes in its financial position for the periods then ended.

(e) Since September 30, 1981, there has not been any material adverse change in the business or financial condition of the Lessee, except as described in an Appendix to the opinion referred to in Exhibit D hereto.

(f) On and as of the Closing Date the information set forth or referred to in Exhibit A hereto will be accurate and complete and the Lessee will have full and complete title to the Equipment free and clear of any and all Liens. None of the Equipment was or will be manufactured by or acquired from the Lessor or any of its affiliates.

(g) The Lessee has not entered into any other agreement similar or dissimilar hereto transferring (or purporting to transfer) any interests in respect of tax benefits relating to the Equipment to any person other than the Lessor.

SECTION 3.02. Representations and Warranties of the Lessor. The Lessor represents and warrants to the Lessee as follows:

(a) The Lessor is a corporation duly organized, validly existing and in good standing under the laws of the State of New York and has all requisite power and authority, corporate or other, to enter into and perform its obligations under this Agreement. This Agreement has been duly authorized, executed and delivered by the Lessor and, assuming due authorization, execution and delivery by the Lessee, constitutes a legal, valid and binding agreement, enforceable against the Lessor in accordance with its terms.

(b) None of the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby or the fulfillment of, or compliance with, the terms and provisions hereof will conflict with, or result in a breach of, the terms, conditions or provisions of (i) the charter or by-laws of the Lessor or (ii) any contractual obligation to which the Lessor is a party or by which it may be bound or to which its property or that of any of its subsidiaries may be subject.

(c) The Lessor is, and will continue to be, a "qualified lessor", within the meaning of Section 5c.168(f)(8)-3(a) of the Temporary Regulations (or any comparable successor regulations), and Section 168(f)(8)(B)(i) of the Code.

ARTICLE IV

CLOSING CONDITIONS

SECTION 4.01. Conditions to Obligations of the Lessor. The obligations of the Lessor to pay the aggregate Purchase Price for the Equipment on the Closing Date shall be subject to the following conditions precedent (any or all of which may be waived in writing by the Lessor):

(a) There shall not have been any change in the Code, in the Temporary Regulations or in administrative or judicial interpretations of the Code or such Regulations which, in the opinion of Messrs. Lee, Toomey & Kent, adversely affects or is likely to affect adversely the tax benefits intended to be realized by the Lessor pursuant to this Agreement.

(b) All approvals and consents of any trustee or holder of any indebtedness or obligations of the Lessee which, in the opinion of the Lessor, shall be required in connection with any of the transactions contemplated by this Agreement shall have been duly obtained, and copies thereof, certified by an officer of the Lessee, shall have been delivered to the Lessor.

(c) The Lessor shall have received an opinion of Messrs. Pepper, Hamilton & Scheetz, special counsel for the Lessee, dated the Closing Date and addressed to the Lessor, in form and substance satisfactory to the Lessor, to the effect set forth in Exhibit D hereto and covering such other matters incident to the foregoing as the Lessor may reasonably request.

(d) The Lessor shall have received an Officer's Certificate of the Lessee dated the Closing Date substantially in the form of Exhibit E hereto.

(e) The Lessor shall have received an opinion of Messrs. Lee, Toomey & Kent, satisfactory in form and substance to the Lessor, as to the tax consequences of the transactions contemplated hereby.

(f) The Lessor shall have received a description, satisfactory in form and detail to the Lessor, of the Lessee's insurance with respect of the Equipment.

(g) The Lessor shall have received a certified copy of that portion of the minutes of the October 29, 1981, meeting of the Board of Directors of the United States Railway Association waiving compliance with certain terms and conditions of the Amended and Restated Financing Agreement dated May 12, 1979, between the Lessee and the United States Railway Association, as such provisions would relate to this Agreement.

(h) The Lessor shall have received all other documents that the Lessor may reasonably request in connection with the transactions contemplated by this Agreement, in form and substance satisfactory to the Lessor.

SECTION 4.02. Conditions to Obligations of the Lessee. The obligations of the Lessee to transfer the Equipment to the Lessor on the Closing Date shall be subject to the receipt by the Lessee on the Closing Date of the following (any or all of which may be waived in writing by the Lessee):

(a) An opinion of Charles T. Bates, Esq., Associate General Counsel of the Lessor, dated the Closing Date and addressed to the Lessee, in form and substance satisfactory to the Lessee and its counsel, to the effect set forth in Exhibit F hereto and covering such other matters incident to the foregoing as the Lessee may reasonably request.

(b) An Officer's Certificate of the Lessor dated the Closing Date substantially in the form of Exhibit G hereto.

ARTICLE V

LEASE OF EQUIPMENT

SECTION 5.01. Lease Term. The term of the lease of each item of Equipment shall commence on and as of the Closing Date concurrently with the transfer of such item to the Lessor and, subject to Sections 5.03 and 5.06, shall terminate on the forty-second Payment Date with respect to such item thereafter. Such term, as to each item of Equipment, is herein called the Lease Term with respect thereto. This Agreement constitutes a separate lease as to each item of Equipment.

SECTION 5.02. Payments of Rent. As rental hereunder for each item of Equipment, the Lessee shall pay to the Lessor on each Payment Date an amount equal to 6.964936% of the Purchase Price therefor (such amounts being herein called Rent); provided, however, that the last such payment of Rent shall be in such greater or lesser amount as shall be exactly sufficient to pay fully the remaining principal and accrued interest on the Note. The provisions of Section 2.04 shall apply to all payments of Rent.

SECTION 5.03. Termination Payments. (a) In the event that any item of Equipment shall during its Lease Term be or become worn out, retired, replaced, lost, stolen, destroyed or, in the reasonable opinion of the Lessee, irreparably damaged, from any cause whatsoever, or shall be acquired by condemnation or otherwise by the United States Government or any other governmental entity for a term ending after the Lease Term for such item or for an indefinite term (any such event being herein called a Termination Occurrence), the Lessee shall promptly notify the Lessor with respect thereto; provided, however, that the Lessee may, by written notice to the Lessor, estimate the items of Equipment having suffered a Termination Occurrence in any semiannual period ending on a Payment Date during the term of this Agreement, which estimate may be based on a sampling of the Lessee's actual experience of Termination Occurrences in respect of similar property of the Lessee or other statistical or engineering techniques which would comply with the provisions of Section 1.47-1(e)(2)(i) of the regulations under the Code or any comparable successor thereto and which, in the reasonable opinion of the Lessor, would accurately reflect the total number and timing of Termination Occurrences happening during the term of this Agreement with respect to the Equipment and which would be consistent with the Lessee's record keeping practices, so as to limit the aggregate amount and timing of deductions and credits in respect of the Equipment to the aggregate amount and timing of deductions and credits allowable without regard to this Agreement; provided further, that if, to the Lessee's actual knowledge, the number of Termination Occurrences with respect to the Equipment in any semiannual period ending on a Payment Date is substantially more or less than such estimate, the Lessee shall notify the Lessor with respect thereto and shall make appropriate adjustments to its estimates during the remaining term of this Agreement. Subject to paragraph (b) of this Section 5.03, on the next succeeding Payment Date which follows the receipt of such notice by 30 days, (a) the Lessee shall pay to the Lessor the

Rent due on such Payment Date and shall pay to the Lessor in immediately available funds an amount equal to the sum of (i) any costs and expenses reasonably incurred by the Lessor in connection with such Termination Occurrence and (ii) an amount equal to the percentage set forth opposite such Payment Date in Exhibit C hereto under the caption "Total Formula Termination Payment" multiplied by the Purchase Price (as the same may have been adjusted pursuant to Section 2.03) for such item (the sum of such amounts so paid or payable being herein called a "Termination Payment") and (b) the Lessor shall (in addition to any installment of principal then falling due) apply to the prepayment of the Note an amount equal to the percentage set forth opposite such Payment Date in Exhibit C hereto under the caption "Amount To Be Applied to Principal of Note" multiplied by such Purchase Price. Such prepayment shall be applied pro rata to all remaining principal installments based on the respective amounts of such installments scheduled to become due on all remaining Payment Dates (excluding the Payment Date on which such prepayment becomes due). Upon the making of such payment by the Lessee in respect of any item of the Equipment, all Rent in respect thereof shall cease to accrue, the Lease Term as to such item shall terminate, and any and all interests of the Lessor in and to such item shall without further action vest in the Lessee (without recourse to or any warranty by the Lessor). The provisions of Section 2.04 shall apply to all Termination Payments and all corresponding applications to prepayment of the principal of the Note.

(b) Notwithstanding the provisions of paragraph (a) of this Section 5.03, if, in the reasonable opinion of the Lessor, a Termination Occurrence with respect to an item of Equipment will not result in the loss by the Lessor of an ACRS Deduction or Investment Credit (as such terms are defined in Section 10.01) or any acceleration of income to the Lessor if the Lease Term with respect to such item is not terminated pursuant to such paragraph (a), then no Termination Payment shall be required of the Lessee with respect to such Termination Occurrence and the Lease Term with respect to such item shall continue in accordance with the applicable terms of this Agreement.

SECTION 5.04. Requisition. In the event of the taking or requisition for use by the United States Government or any other governmental entity of any item of Equipment which shall not constitute a Termination Occurrence, all the obligations of the Lessee hereunder with respect to such

item shall continue to the same extent as if such taking or requisition had not occurred. However, the Lessee shall promptly report any such taking or requisition to the Lessor. All payments received by the Lessor or the Lessee from the United States Government or such governmental entity for the use of such item during its Lease Term shall be paid over to, or retained by, the Lessee.

SECTION 5.05. Net Lease; No Release; Waiver. The obligations of the Lessee under this Article V constitute a net lease, and the obligation to pay all amounts payable hereunder as Rent, Termination Payments or otherwise shall be unconditional and absolute and shall not be affected by any circumstances whatsoever (including without limitation any counterclaim, defense or other right which the Lessee may have against the Lessor; any defect in, damage to or loss of any of the Equipment; or any insolvency, bankruptcy or similar proceedings by or against the Lessee), subject only to the setoff rights described in Section 2.04. Except as provided in Section 5.03, the Lessee shall not be released from its obligations under this Article V in the event of, and shall bear the risk of, any Termination Occurrence to any of the Equipment. The Lessee hereby waives, to the extent permitted by applicable law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel or surrender this Agreement.

SECTION 5.06. Events of Default; Remedies. If, during the continuance of the Lease Term with respect to any of the Equipment, one or more of the following events (each of such events being herein sometimes called an Event of Default) shall occur:

(a) default shall be made in the payment of any amount required by this Agreement to be paid to the Lessor; or

(b) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein, and such default shall continue for 15 days after written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied; or

(c) the Lessee shall (i) be generally not paying

its debts as they become due, (ii) file, or consent by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, (iii) make an assignment for the benefit of its creditors, (iv) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property or (v) take corporate action for the purpose of any of the foregoing; or

(d) a court or governmental authority of competent jurisdiction shall enter an order appointing, without consent by the Lessee, a custodian, receiver, trustee or other officer with similar powers with respect to the Lessee, or with respect to any substantial part of the Lessee's property, or constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Lessee, or if any such petition shall be filed against the Lessee and such petition shall not be dismissed within 60 days;

then, in any such event the Lessor may (i) by written notice to the Lessee terminate the Lease Term with respect to any item of or all the Equipment (and the Lessee shall indemnify the Lessor against any resulting Loss to the extent required pursuant to Articles IX and X) or (ii) proceed by appropriate court action, either at law or in equity, to enforce performance by the Lessee of the terms hereof or to recover damages for the breach hereof. The Lessee shall pay all expenses, including attorneys' fees and disbursements, reasonably incurred by the Lessor by reason of the occurrence of an Event of Default and in enforcing its remedies under this Section 5.06. No remedy referred to in this Section 5.06 is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to the Lessor; and the exercise or beginning of exercise by the Lessor of any one or more of such remedies shall not preclude the simultaneous or later exercise by the Lessor of any or all such other remedies. No express or implied waiver by the Lessor of any Event of Default hereunder shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default. To the extent permitted

by applicable law, the Lessee hereby waives any rights now or hereafter conferred by statute or otherwise which may limit or modify any of the Lessor's rights or remedies under this Section 5.06.

ARTICLE VI

OPTIONS

SECTION 6.01. Options. On the final Payment Date, if neither a Default nor an Event of Default shall have occurred and be continuing, the Lessee shall have the right to purchase all the rights and interests of the Lessor in and to all the remaining Equipment for an aggregate purchase price of \$1. On the final Payment Date the Lessor shall have the right to require the Lessee to purchase all the rights and interests of the Lessor in and to all the remaining Equipment for an aggregate purchase price of \$1. Unless each of the Lessee and the Lessor shall give written notice to the other party at least 90 days prior to the final Payment Date stating that the Lessee or the Lessor, as the case may be, does not intend to exercise its option under this Section 6.01, each such option shall be deemed exercised (if then exercisable, in the case of the Lessee's option) on the final Payment Date and on such Payment Date all interests of the Lessor in and to the remaining Equipment shall, without further action, vest in the Lessee (without recourse to or any warranty by the Lessor).

ARTICLE VII

COVENANTS OF LESSEE

Until the end of the Lease Term with respect to each item of Equipment, the Lessee covenants and agrees with the Lessor as follows:

SECTION 7.01. Insurance. The Lessee will, at its own expense, cause to be carried and maintained insurance with respect to all items of Equipment at the time subject hereto and the use and operation thereof, including, without limitation, property insurance and public liability insurance, in such amounts, subject to such deductibles and for such risks and with such insurance companies as are at least comparable to insurance coverage customary in Lessee's

industry in respect of similar equipment owned or leased by it. The Lessee hereby assigns and transfers to the Lessor all right, title, and interest in and to any insurance proceeds paid under any policy of insurance to the extent such proceeds relate to the items of Equipment or the use and operation thereof as aforesaid; provided, however, that if the Lessee shall fully comply with all the provisions of this Section 7.01 in respect of the risk insured against as to which such proceeds are paid and, if neither a Default nor an Event of Default shall have occurred and be continuing, the Lessee shall be entitled to retain all such proceeds. The Lessee will furnish to the Lessor on request a description of its insurance coverage with respect to the Equipment and will furnish to the Lessor 30 days' prior written notice of any material change in such coverage; provided, however, that if it is not practicable for the Lessee to have knowledge of a material change in coverage at least 30 days prior to the occurrence thereof, the Lessee shall give the Lessor written notice as soon as the Lessee learns of such change.

SECTION 7.02. Periodic Reports. Commencing on January 31, 1982, and on each July 31, October 31 and January 31 in each year thereafter, the Lessee will furnish to the Lessor a statement dated as of the preceding December 31, 1981, or June 30, September 30 or December 31, as the case may thereafter be, which shall (i) describe in detail all changes to Exhibit A which would be required to make such Exhibit accurate and complete as of such date with respect to the items of Equipment then leased hereunder, (ii) identify all items of Equipment that shall have suffered a Termination Occurrence during the preceding 6 months or 3 months, as the case may be and (iii) identify the location by state of each item of Equipment which the Lessee operates and which is on the Lessee's own lines as of such date. Within 120 days of the close of each such period, the Lessee will furnish to the Lessor a statement dated as of the close of such period, which shall describe in a reasonably acceptable manner (which in any case shall be sufficient under any applicable state or local law) and in detail the mileage and time by state, during such period, for each item of Equipment subject to this Agreement which is on the Lessee's lines. In addition, within 120 days of the close of each such period, the Lessee will furnish to the Lessor a statement dated as of the close of such period, which shall describe in a reasonably acceptable manner (which in any event shall be sufficient under any applicable state or local law) and in detail (A) the cars which were off the Lessee's lines at any time during such period, (B) when the cars left and returned to the Lessee's lines, (C) periods of usage by railroad, on lines of other railroads, and (D) origin and destination date for cars consigned to or originated from points on the Lessee's lines. The Lessee will prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than income tax returns) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the Lessor's interest in the Equipment or the leasing thereof to the Lessee. The

Lessee will also furnish to the Lessor, promptly upon transmission thereof, copies of all regular and periodic reports filed by the Lessee with the Securities and Exchange Commission and of all reports and information furnished by the Lessee to its stockholders. The Lessor shall have the right (but not any obligation) to inspect all or any of the Equipment and the records of the Lessee with respect thereto at such reasonable times as the Lessor may request.

The Lessee shall furnish to the Lessor the information required by clause (iii) of the preceding paragraph in respect of the Equipment as of the Closing Date no later than December 15, 1981, and, unless such information is so provided, the Lessee shall pay to the Lessor \$300,000, as a penalty; provided, however, that so long as the Lessee is diligently attempting to provide such information and to comply with all reasonable requests of the Lessor with regard thereto and if such information is provided no later than January 31, 1982, then such penalty amount shall not be payable. Unless the periodic reports required by clause (iii) and the two following sentences of the preceding paragraph shall be furnished to the Lessor within thirty (30) days of the due date therefor, the Lessee shall pay to the Lessor in each such instance \$50,000, as a penalty.

SECTION 7.03. Compliance with Laws, etc. The Lessee agrees, for the benefit of the Lessor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each item of Equipment) with all laws of the jurisdictions in which its operations involving the Equipment may extend and with all lawful rules of any legislative, executive, administrative or judicial body exercising any power or jurisdiction over any of the Equipment if the failure so to comply could adversely affect the tax benefits intended to be realized by the Lessor pursuant to this Agreement (and whether or not the Lessee is obligated to indemnify the Lessor in connection therewith). If the Lessee shall receive notification from a legislative, executive or judicial body of any such failure, it will promptly report such notification to the Lessor.

SECTION 7.04. Other Reports. The Lessee will prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than income tax returns) to be filed by the Lessor

with any Federal, state or other regulatory authority by reason of the Lessor's interest in the Equipment or the leasing thereof to the Lessee. The Lessee will from time to time do and perform any act, and will execute, acknowledge, deliver, file, register, deposit and record (and will refile, reregister, redeposit or rerecord whenever required) any and all further instruments, required by law or reasonably requested by the Lessor for the purpose of proper protection, to the Lessor's satisfaction, of the Lessor's rights and interests under this Agreement or for the purpose of carrying out the intention of this Agreement; and, if required by the Lessor, the Lessee will promptly furnish to the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Lessor.

SECTION 7.05. Maintenance. During the Lease Term with respect to each item of Equipment the Lessee will, at its own cost and expense, maintain and keep each such item (including any parts installed thereon or replacements made thereto) in good operating order, repair and condition, ordinary wear and tear excepted.

SECTION 7.06. Indebtedness, Transfer and Subleasing. During the Lease Term with respect to each item of Equipment the Lessee will promptly pay when due any and all indebtedness and other obligations to which such item may be subject. Except as otherwise provided in Section 7.07 or 7.10, during the Lease Term with respect to each item of Equipment the Lessee will not, without the prior written consent of the Lessor (i) sell, assign or otherwise transfer any interest in such item, (ii) sublease or otherwise in any manner transfer possession or control of such item, (iii) directly or indirectly create, incur, assume or suffer to exist any Lien with respect to such item, (iv) abandon such item of Equipment or (v) agree to do any of the foregoing (whether or not the Lessee is obligated to indemnify the Lessor in connection therewith). Any person who purports to acquire under or through the Lessee, whether by sublease, foreclosure of any lien, operation of law or otherwise, any right to the possession or control of any item of Equipment prior to the expiration of the Lease Term with respect thereto and the payment in full of all obligations to the Lessor with respect thereto pursuant to this Agreement, shall acquire no interest

in such item of Equipment greater than the interest held by the Lessee hereunder. Pursuant to and not in limitation of the foregoing, the Lessee will not, without the prior written consent of the Lessor, take any action referred to in the second sentence of this Section 7.06 or permit any such action to be taken if such action constitutes or could result in a disqualifying event within the meaning of Section 5c.168(f)(8)-(8)(b) of the Temporary Regulations (or any comparable successor regulation), and the Lessee will not, without the prior written consent of the Lessor, take any action referred to in the second sentence of this Section 7.06 or permit any such action to be taken unless, prior to the effective date of the sale, assignment, transfer or sublease, or the date of attachment of any Lien, as the case may be, the Lessor shall have been furnished with the written agreement of the person acquiring an interest in, possession or control of or a Lien on an item of Equipment (the "Acquiring Person") (i) to take such item of Equipment subject to this Agreement, (ii) to file the statement contemplated by clause (ii) of Section 5c.168(f)(8)-2(a)(5) of the Temporary Regulations (or any comparable successor regulation) and (iii) to assume full and complete responsibility for the due and punctual performance and observance of each covenant and condition of this Agreement to be performed or observed by the Lessee with respect to such item of Equipment. Notwithstanding any of the preceding provisions of this Section 7.06, the Lessee may sell, assign or transfer any item of Equipment in the ordinary course of its business or in connection with abandonments of rail properties or pursuant to Section 405 et seq. of the Regional Rail Reorganization Act of 1973, as amended, if (x) such item shall thereafter not be owned or used other than in interchange by the Lessee or any of its affiliates and (y) the Lessee complies with all the provisions of this Agreement which would be applicable if a Termination Occurrence had occurred with respect to such item of Equipment on the date of such sale, assignment or transfer, and the Termination Payment in respect thereof shall have been paid simultaneously with or before such action.

No lease, sublease or other arrangement for use, operation or possession of any item of Equipment, no acquisition by any person, whether by foreclosure of lien, operation of law or otherwise, of any right to possession or control of any item of Equipment and no action taken pursuant to this Section 7.06 shall have the effect of releasing the Lessee, any Acquiring Person or any successor corporation which shall theretofore become such in the manner prescribed in Section 7.07 from its liabilities under this Agreement, and any attempted sale, assignment, transfer, sublease or Lien in violation of this Section 7.06 or Section 7.07 shall

be void. The Lessee acknowledges that recovery of damages at law will not be an adequate remedy for any breach of this Section 7.06 or Section 7.07 and agrees that if it does not comply with either such Section, an injunction requiring specific performance may be issued against it, in addition to any other rights the Lessor may have. The Lessor acknowledges that the Lessee and the Acquiring Person may make such arrangements, not inconsistent with this Section 7.06, between themselves with respect to any such sale, assignment, transfer, sublease or Lien as they may see fit.

SECTION 7.07. Consolidation and Merger. The Lessee shall not consolidate with or merge into any other corporation or convey, transfer or lease substantially all its assets as an entirety (through liquidation or otherwise) unless the corporation formed by such consolidation or into which the Lessee is merged or the entity which acquires by conveyance, transfer or lease substantially all the assets of the Lessee as an entirety shall be a corporation organized under the laws of the United States of America (including the laws of any state thereof) which shall effectively assume full and complete responsibility for the due and punctual performance and observance of each covenant and condition of this Agreement to be performed or observed by the Lessee. Prior to the effective date of such consolidation, merger, conveyance, transfer or lease of substantially all the assets of the Lessee as an entirety, the successor corporation shall furnish to the Lessor such corporation's written agreement (i) to assume full and complete responsibility for the due and punctual performance and observance of each covenant and condition of this Agreement to be performed or observed by the Lessee, (ii) to take all the Equipment subject to this Agreement and (iii) if required by the Temporary Regulations (or any successor regulation) to give effect to the foregoing, to file the statement contemplated by clause (ii) of Section 5c.168(f)(8)-2(a)(5) of the Temporary Regulations (or any comparable successor regulation). Upon any consolidation or merger, or any conveyance, transfer or lease of substantially all the assets of the Lessee as an entirety in accordance with this Section 7.07, the successor corporation formed by such consolidation or into which the Lessee is merged or to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Lessee under this Agreement with the same effect as if such successor corporation had been named as the Lessee herein. No such conveyance, transfer or lease of substantially all the assets of the Lessee

as an entirety shall have the effect of releasing the Lessee or any successor corporation which shall theretofore have become such in the manner prescribed in this Section 7.07 from its liability hereunder. Notwithstanding any of the preceding provisions of this Section 7.07, the Lessee may so consolidate or merge or convey, transfer or lease substantially all its assets if the Lessee complies with all the provisions of this Agreement which would be applicable if a Termination Occurrence had occurred with respect to all the Equipment on the date of such event, and the Termination Payment in respect thereof shall have been paid simultaneously with or before such event. Nothing contained herein shall permit any lease, sublease or other arrangement for the use, operation or possession of the Equipment in violation of Section 7.06.

SECTION 7.08. Recording, etc. The Lessee, at its own cost and expense, will from time to time do and perform any act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all instruments reasonably requested by the Lessor for the purpose of proper protection, to its satisfaction, of the rights and interests of the Lessor under this Agreement, or for the purpose of carrying out the intention of this Agreement; and the Lessee will promptly furnish to the Lessor evidence of all such filing, registering, depositing or recording, and (if required by the Lessor) an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Lessor.

SECTION 7.09. Transfer of Tax Benefits. The Lessee will not enter into any other agreement or arrangement transferring (or purporting to transfer) any interest in respect of tax benefits relating to the Equipment to any person other than the Lessor.

SECTION 7.10. Negative Pledge. During the entire Lease Term, the Lessee will not, without the prior written consent of the Lessor, directly or indirectly create, incur, assume or suffer to exist any Lien with respect to any of its real or personal property except (i) Liens on real and personal property purchased by the Lessee securing the purchase price of the property on which such Lien is given or Liens securing the cost of construction, reconstruction or betterment of structures or other improvements on or to such property or Liens existing on such property at the time of its acquisition, in each case provided that any such Lien shall

at all times be confined solely to the property so acquired; (ii) Liens on real and personal property imposed in connection with debt incurred to retire other debt, provided that any such Lien shall cover only the property subject to the Lien securing the debt being so retired and that the terms and conditions of the new Lien shall not be more onerous, nor the amount of debt be greater, than the terms and conditions of the Lien existing on such property on the date of the retirement of the preexisting debt, (iii) Liens on real and personal property imposed in connection with debt incurred for the acquisition by lease (including sale and leaseback transactions), conditional sale agreement or equipment trust agreement, or the construction, reconstruction or betterment, of any such property, provided that any such Lien shall at all times be confined solely to the newly acquired property for which such debt was incurred or (iv) Liens arising after the date of this Agreement resulting from other agreements pursuant to which the Lessee transfers tax benefits in transactions similar to the transactions contemplated in this Agreement to the extent that such other agreements are not in violation of Section 7.09 and do not provide for any first security interest in tangible property of the Lessee, unless prior to any such creation, incurrence, or assumption the Lessee shall have granted to the Lessor a first security interest (a "Lessor's Senior Security Interest") in other tangible property of the Lessee with an aggregate fair market value equal to at least the maximum amount to which the Lessor would be entitled pursuant to Articles VIII, IX and X of this Agreement in the event of a breach by the Lessee of any of the provisions of this Agreement at the time of the granting of such Lessor's Senior Security Interest. For purposes of this Section 7.10, the fair market value of the Lessee's tangible property which is to be subject to the Lessor's Senior Security Interest shall be as agreed to by the Lessee and the Lessor; provided that in the event the Lessor and the Lessee are unable so to agree, the determination of such fair market value shall be referred to an independent appraiser whose determination shall be binding on, and non-appealable by, the Lessor and the Lessee. Subsequent to the granting of any such Lessor's Senior Security Interest, annual adjustments shall be made to such Security Interest so that the aggregate fair market value of the tangible property of the Lessee covered thereby shall be the same as the maximum amount to which the Lessor would be entitled pursuant to Articles VIII, IX and X of this Agreement in the event of a breach by the Lessee of any of the provisions of this Agreement at the dates of such annual adjustments.

ARTICLE VIII

GENERAL INDEMNITY

SECTION 8.01. Indemnification. The Lessee will pay, and will protect, indemnify and hold each Indemnified Person harmless from and against, any and all causes of action, suits, penalties, claims, demands or judgments of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any and all liabilities, obligations, damages, costs, disbursements, attorneys' fees and expenses and other expenses relating thereto) in any way relating to or arising, or alleged to arise, out of this Agreement or the Equipment, including, without limitation, those in any way relating to or arising or alleged to arise out of (a) the manufacture, financing, construction, erection, purchase, acceptance, rejection, ownership, delivery, nondelivery, transfer, lease, possession, control, use, operation, condition, occupancy, installation, servicing, maintenance, repair, transfer of title, abandonment, improvement, replacement, sale, return or other disposition of any item of Equipment or any part thereof, (b) any latent or other defect whether or not discoverable by the Lessor or the Lessee, (c) any claim for patent, trademark or copyright infringement, (d) any claims based on liability in tort, strict or otherwise, (e) any injury to or the death of any person or any damage to or loss of property on or near any item of Equipment or any part thereof or in any manner growing out of or be connected with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of any item of Equipment or any part thereof or of any other equipment in connection with any item of Equipment or any part thereof (whether owned or under the control of the Lessor, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof, or (f) any violation of any provision of this Agreement (except by the Lessor) or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to any item of Equipment or any part thereof or the leasing, ownership, use, replacement, adaptation or maintenance thereof (all of which matters hereinabove set forth in this Section 8.01 being hereinafter called Indemnified Matters); provided, however, that the provisions of this Section 8.01 shall not apply to any causes of action, suits, penalties, claims, demands or judgments of any nature which shall have arisen from an act of the party claiming indemnification. The Lessee shall be obligated under this Section 8.01 irrespective of whether any Indemnified Person shall also be indemnified with respect to the same Indemnified

Matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this Section 8.01 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding shall be brought against any Indemnified Person in connection with any Indemnified Matter, the Lessee may, and upon the request of such Indemnified Person will, at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any payment under this Section 8.01, the Lessee shall pay such Indemnified Person an amount which, after deduction of all Taxes required to be paid by such Indemnified Person in respect of the receipt thereof, shall be equal to the amount of such payment. The Lessee and the Lessor each agree to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against (but the failure to provide such notice shall not affect the Lessee's obligations hereunder to any Indemnified Person). Upon the payment in full of any indemnities as contained in this Section 8.01 by the Lessee, and provided that no Default or Event of Default shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person (except against another Indemnified Person) in respect of the Indemnified Matter against which indemnity shall have been given. None of the indemnities of this Section 8.01 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

ARTICLE IX

GENERAL TAX INDEMNITY

SECTION 9.01. Indemnification. All payments by the Lessee in connection with the transactions contemplated by this Agreement shall be free of withholdings of any nature whatsoever (and at the time that the Lessee shall be required to make any payment upon which any withholding shall be

required, the Lessee shall pay an additional amount such that the net amount actually received by the person entitled to receive such payment will, after such withholding, equal the full amount of the payment then due) and shall be free of expense to the Lessor for collection or other charges, and, except as provided in the last sentence of this Section 9.01, the Lessee hereby agrees to reimburse or pay and assume liability for, and does hereby agree to indemnify, protect, defend, save and keep harmless on an after-tax basis each Indemnified Person from and against, any and all Taxes imposed (whether now existing or hereafter enacted or adopted) against any Indemnified Person, the Lessee or any item of the Equipment or any part thereof by any authority having or asserted to have jurisdiction to impose such Taxes (including, without limitation, any Federal, state or local government or taxing authority in the United States or any foreign government or foreign or international taxing authority or any subdivision of any of the foregoing) (A) upon or with respect to any item of the Equipment or any part thereof, (B) upon or with respect to the manufacture, financing, construction, erection, purchase, acceptance, rejection, ownership, delivery, nondelivery, transfer, lease, possession, control, use, operation, condition, occupancy, installation, servicing, maintenance, repair, transfer of title or possession, license abandonment, improvement, replacement, sale, return or other disposition of any item of the Equipment or any part thereof, (C) upon or with respect to the rentals, receipts or earnings arising from any item of the Equipment or any part thereof, including the Rent or other sums payable by the Lessee under this Agreement, (D) upon or with respect to the income or other proceeds received with respect to any item of the Equipment or any part thereof upon the disposition thereof, (E) upon or with respect to this Agreement or the Note or any contract relating to the manufacture, construction, acquisition or delivery of any item of the Equipment, in each case as supplemented or amended (hereinafter collectively called the "Operative Documents"), (F) upon recordation of any of the foregoing or (G) otherwise in connection with the transactions contemplated by the Operative Documents. The provisions of this Section 9.01 shall not apply to United States Federal Taxes, or Taxes of any state or local government or taxing authority in the United States, in each case on, based on or measured by the net income of the Lessor (other than (i) Taxes in the nature of or in lieu of sales, use or rental taxes, (ii) Taxes which, by the terms of the statute imposing such Taxes, expressly relieve the Lessee as a lessee from the payment of Taxes which it would otherwise

be obligated to pay or indemnify and (iii) Taxes upon or with respect to indemnification payments made pursuant to this Article IX).

SECTION 9.02. Contests. If any claim shall be made against any Indemnified Person or if any proceeding shall be commenced against any Indemnified Person (including a written notice of such proceeding) for any Taxes as to which the Lessee has an indemnity obligation pursuant to Section 9.01, such Indemnified Person shall promptly notify the Lessee (but the failure to provide such notice shall not affect the Lessee's obligations hereunder to any Indemnified Person). If reasonably requested by the Lessee in writing, and upon determination by such Indemnified Person that the action to be taken will not result in a substantial risk of adverse consequences to it, such Indemnified Person shall upon receipt of indemnity satisfactory to it and at the expense of the Lessee (including, without limitation, all costs, expenses, losses, attorneys' and accountants' fees and disbursements, penalties and interest) in good faith contest the validity, applicability or amount of such Taxes by, in such Indemnified Person's sole discretion, (A) resisting payment thereof, (B) not paying the same except under protest, if protest shall be necessary and proper, or (C) if payment shall be made, using reasonable efforts to obtain a refund thereof in appropriate administrative and judicial proceedings. Any contest required pursuant to the preceding sentence shall, at the option of such Indemnified Person, be conducted by such Indemnified Person or the Lessee in the name of the Lessee or such Indemnified Person. If the contest shall be made by the payment of such Taxes and the claiming of a refund, the Lessee shall either make such payment directly to the appropriate authority or furnish to such Indemnified Person sufficient funds to make such payment. If any Indemnified Person shall obtain a refund of all or any part of any Taxes paid or reimbursed by the Lessee and if no Default or Event of Default shall have occurred and be continuing, such Indemnified Person shall promptly pay to the Lessee the amount of such refund net of expenses not already paid or reimbursed by the Lessee; provided, however, that such amount shall in no event be payable before such time as the Lessee shall have made all payments and indemnities then due under this Agreement to such Indemnified Person. If in addition to such refund such Indemnified Person shall receive an amount representing interest on the amount of such refund, the Lessee shall promptly be paid that proportion of such interest which shall be fairly attributable to Taxes paid or reimbursed

by the Lessee prior to the receipt of such refund. Nothing contained in this Article IX shall require an Indemnified Person to contest a claim which it would otherwise be required to contest pursuant to this Article IX if such Indemnified Person shall waive in writing payment by the Lessee of any amount that might otherwise be payable by the Lessee under this Article IX by way of indemnity in respect of such claim.

SECTION 9.03. Payments. All Taxes shall be paid when due and payable and all amounts payable as indemnities pursuant to this Article IX shall be payable, to the extent not theretofore paid, on written demand by the appropriate Indemnified Person. Notwithstanding any other provision of this Agreement, to the extent the Lessee shall be required to make any payment under this Article IX (including under this Section 9.03) the Lessee's payment or indemnity obligation shall also include any amount necessary to hold the appropriate Indemnified Person harmless on an after-tax basis from all Taxes required to be paid by such Indemnified Person with respect to such payment or indemnity. Whenever any payment is to be made by the Lessee under this Article IX and it shall be necessary in calculating the amount of such payment, and any related payment pursuant to the preceding sentence, to compute the amount of any liability for Federal, state or local tax imposed on or measured by the net income of an Indemnified Person, such computation shall be based on the assumption that such taxes shall be payable at the highest marginal statutory rate in effect for the relevant period.

SECTION 9.04. Reports and Returns. In case any report or return shall be required to be made with respect to any obligations of the Lessee under or arising out of this Article IX, the Lessee shall (a) to the extent required or permitted by law, make and file in its own name such return, statement or report, and (b) in the case of any other such return, statement or report required to be made in the name of an Indemnified Person, advise the Lessor of such fact and prepare such return, statement or report for filing by such Indemnified Person or, where such return, statement or report shall be required to reflect items in addition to any obligations of the Lessee under or arising out of this Article IX, provide such Indemnified Person with information sufficient to permit such return, statement or report to be properly made with respect to any obligations of the Lessee under or arising out of this Article IX or any other Article herein (and the Lessee shall hold each Indemnified Person harmless

from and against any liabilities, obligations, losses, damages, penalties, claims, actions, suits and costs arising out of any insufficiency or inaccuracy in any such return, statement, report or information).

SECTION 9.05. Receipts. The Lessee agrees to use its best efforts to obtain official receipts indicating the payment of all foreign Taxes which are subject to indemnification under this Article IX and shall promptly send to the Indemnified Person each such receipt obtained by the Lessee.

ARTICLE X

SPECIAL TAX INDEMNITY

SECTION 10.01. Certain Assumptions. This Agreement is being entered into on the assumption that the Lessor will be treated as the owner of each item of Equipment for Federal income tax purposes and (A) will be entitled, for Federal income tax purposes, (a) to cost recovery deductions with respect to each item of Equipment under Section 168 of the Code as in effect on the date hereof in the amount of 15 percent of the Purchase Price (prior to any adjustment pursuant to Section 2.03) of each item of Equipment in its taxable year ending December 31, 1981, 22 percent of such unadjusted Purchase Price in its taxable year ending December 31, 1982, and 21 percent of such unadjusted Purchase Price in each of its three successive taxable years thereafter, resulting in a reduction of the Lessor's basis in each item of Equipment to a net salvage value of zero (the "ACRS Deduction"); (b) to an investment credit under Section 38 and related sections of the Code as in effect on the date hereof in an amount equal to 10 percent of the Purchase Price (prior to any adjustment pursuant to Section 2.03) of each item of Equipment in its taxable year ending December 31, 1981 (the "Investment Credit"); (c) to current deductions with respect to interest accrued or due on the Note pursuant to Section 163 of the Code (the "Interest Deduction"); and (d) to treat each item of income, loss, deduction or credit with respect to the transactions contemplated by this Agreement as derived from, or allocable to, sources within the United States and (B) shall not be required to include any amount in its gross income for Federal income tax purposes with respect to or in connection with any item of Equipment or any part thereof or any of the transactions contemplated by this Agreement, other than any payments of Rent and Termination Payments on the dates on which such amounts shall be required to be paid under this Agreement.

SECTION 10.02. Inconsistent Actions; Records.

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing and that the Lessee will file such returns, take such actions and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof. The Lessee agrees to keep and make available for inspection and copying by the Lessor such records as shall be reasonably necessary to establish the factual basis for the matters referred to in Section 10.01 hereof.

SECTION 10.03. Representations, Warranties and Covenants. The Lessee represents, warrants and covenants that (a) each item of Equipment is "new section 38 property", as defined in Section 48(b) of the Code and the regulations promulgated thereunder and § 5c.168(f)(8)-6(b)(1) of the Temporary Regulations (or any comparable successor regulation) as in effect on the date hereof, of the Lessee, (b) each item of Equipment which was placed in service, as such term is used in Sections 46, 48, 167 and 168 of the Code as in effect on the date hereof and the regulations promulgated thereunder including specifically § 5c.168(f)(8)-6(b)(2) of the Temporary Regulations (or any comparable successor regulation), prior to the date hereof was so placed in service by the Lessee on the date specified with respect thereto in Exhibit A; no such item of Equipment was so placed in service by the Lessee earlier than January 1, 1981, nor will any such item of Equipment be placed in service by the Lessee later than the day prior to the Closing Date, (c) Lessee's Basis in each item of Equipment excludes all costs or other expenses for which Lessee has elected for Federal income tax purposes amortization in lieu of depreciation or treatment as an expense, and the Purchase Price of each item of Equipment shall not exceed the Lessee's Basis in such item of Equipment on the Closing Date, (d) each item of Equipment falls within an asset guideline class, as set forth in Rev. Proc. 77-10, 1977-1 C.B. 548, as amended and in effect on January 1, 1981, that meets the requirements set forth in Exhibit A, (e) in the hands of the Lessor, each item of Equipment will constitute "recovery property", as defined in Section 168(c)(1) of the Code as in effect on the date hereof, which is "5-year property", as defined in Section 168(c)(2)(B) of the Code as in effect on the date hereof, (f) the Lessee will characterize this Agreement as a lease pursuant to which the Lessee is the lessee of each item of Equipment and the Lessor is the lessor of each item of Equipment and will elect on its Federal

income tax returns (in accordance with the provisions of Section 168(f)(8) of the Code and § 5c.168(f)(8)-2 of the Temporary Regulations (or any comparable successor regulation) to have the provisions of Section 168(f)(8) of the Code apply to this Agreement, (g) at all times during the Lease Term with respect to each item of Equipment, each such item (x) will constitute "section 38 property" within the meaning of Section 48(a) of the Code as in effect on the date hereof and (y) will not be used predominantly outside the United States within the meaning of such Section 48(a) or Section 168(f)(2) of the Code and (z) the Lessee will maintain sufficient records to verify such use, (h) the Lessee will not take any action in connection with filing its Federal income tax returns which, pursuant to Section 168(f)(8) or (10) of the Code, would disentitle the Lessor to any tax benefits described in Section 10.01, (i) the Lessee has received no contributions to capital in 1981 or any other year requiring or having the effect of reducing, under Section 362(c) of the Code, the basis of any item of Equipment, (j) the Lessee shall not elect, with respect to any "5-year property" placed in service in 1981 whether or not subject to this agreement, to use any recovery period other than five years and (k) the Lessee does not expect the items of Equipment to be used outside the United States other than on a temporary basis which is not expected to exceed a total of 90 days in any taxable years.

SECTION 10.04. Indemnified Losses. If for any reason (A) the Lessor shall lose, or shall not have, or shall lose the right to claim, or shall suffer a disallowance of or shall be required to recapture all or any portion of the ACRS Deduction, the Investment Credit or the Interest Deduction or (B) the Lessor shall be required to include any amount in its gross income for Federal income tax purposes with respect to any item of Equipment or any part thereof or any of the transactions contemplated by this Agreement other than payments of Rent and Termination Payments on the dates on which such amounts shall be required to be paid under this Agreement or (C) any item of income, loss, deduction or credit with respect to the transactions contemplated by this Agreement shall be treated as derived from, or allocable to, sources without the United States for Federal income tax purposes with the result that the amount of the foreign tax credits that shall be allowed to the Lessor with respect to any taxable year shall be less than the amount of the foreign tax credits that would have been allowed to the Lessor with respect to such taxable year if it had not participated in the transactions contemplated by this Agreement (any such loss, disallowance, recapture, inclusion or treatment described in the foregoing clause (A), (B) or (C) being herein-after called a "Loss"), then in any such case the Lessee shall, subject to Section 10.05, pay on demand to the Lessor an amount which, after deduction of all additional Federal taxes payable by the Lessor in respect of the receipt of any amount pursuant to this sentence, shall be equal to the sum of (i) the additional Federal taxes payable by the Lessor as a result of such Loss plus (ii) the aggregate amount of any interest, penalties or additions to tax payable by the Lessor as a result of such Loss.

Notwithstanding anything in this Section 10.04 to the contrary, if and to the extent that the Lessor shall suffer any additional state or local tax on account of the location in New York State of more than 15% (by dollar value) of the aggregate value of the items of Equipment (such tax being hereinafter called "Additional Tax"), the Lessee shall pay on demand to the Lessor an amount equal to such Additional Tax plus Federal, state and local taxes payable by the Lessor in respect of the receipt of such amount.

SECTION 10.05. Other Losses. The Lessee shall not be required to make any payment to the Lessor provided for in Section 10.04 in respect of a Loss if the Lessor shall have suffered such Loss solely as a direct result of the occurrence of one or more of the following events:

(a) except with respect to a Loss described in clause (B) or (C) of Section 10.04, a Termination Occurrence with respect to an item of the Equipment only to the extent that the Lessor shall have been reimbursed for such Loss by a payment pursuant to Section 5.03(a);

(b) a voluntary transfer or other voluntary disposition by the Lessor of any interest in any item of Equipment, other than a transfer or other disposition while an Event of Default has occurred and is continuing (for purposes of this subparagraph (b), a transfer or disposition pursuant to Article VI shall not be considered a voluntary transfer or disposition);

(c) the failure of the Lessor to have sufficient taxable income against which to apply the ACRS Deduction or the Interest Deduction or sufficient liability for tax against which to apply the Investment Credit;

(d) the failure of the Lessor to timely claim the ACRS Deduction, the Investment Credit or the Interest Deduction in its income tax return for the appropriate year or to follow the proper procedure in claiming such deduction or credit in such tax return for such year unless (x) such failure shall be due to the failure of the Lessee to provide the Lessor in a timely manner with information that shall be reasonably necessary to make such claim or follow such procedure or (y) in the opinion of Messrs. Lee, Toomey & Kent or other indepen-

dent tax counsel selected by the Lessor and approved by the Lessee (which approval shall not be unreasonably withheld) there shall be no reasonable basis for such claim or treatment or (z) the matter in question shall be of a continuing nature and such matter (although not in respect of the particular taxable period) shall have previously been decided pursuant to the contest provisions hereof (other than by reason of the Lessor's not contesting such Loss for any given period under circumstances in which the Lessee shall thereby be relieved of its indemnity obligation with respect thereto);

(e) the occurrence of a change in the Code pertaining to tax rates;

(f) the applicability of Section 465, 46(c)(8), 46(c)(9), 47(d) or 57(a) of the Code to the Lessor, as in effect on the date of this Agreement;

(g) the failure of the Lessor to be a "United States person" within the meaning of Section 48(a)(2)(B)(ii) or a "qualified lessor" within the meaning of Section 5c.168(f)(8)-3 of the Temporary Regulations;

(h) the failure of the Lessor for Federal income tax purposes to amortize on a straight-line basis over the term of this Agreement any fees, expenses or other costs incurred by the Lessor in connection with this Agreement;

(i) the failure of the Lessor for Federal income tax purposes to include in Lessor's gross income any Rental Payment or Termination Payment; or

(j) the wilful misconduct or gross negligence of the Lessor other than acts pursuant to the terms of this Agreement or based in whole or in part on any information supplied to Lessor by Lessee.

SECTION 10.06. Tax Savings. (a) If the Lessor, as the result of a Loss occurring with respect to any year under circumstances which require the Lessee to indemnify the Lessor with respect to such Loss, shall actually realize with respect to any subsequent year Federal income tax savings which it would not have realized but for such Loss, the Lessor shall pay to the Lessee an amount equal to the sum of

such Federal income tax savings actually realized by the Lessor plus any additional Federal income tax savings actually realized as the result of any payment made pursuant to this sentence when, as, if and to the extent such Federal income tax savings are actually realized; provided, however, that (i) such sum shall not exceed the excess of the amounts previously paid by the Lessee to the Lessor pursuant to Section 10.04 with respect to the Loss which shall have given rise to such tax savings over the amounts previously paid by the Lessor to the Lessee pursuant to this Section 10.06 with respect to such Loss, (ii) such sum shall not be payable before such time as the Lessee shall have made all payments or indemnities then due pursuant to this Agreement, (iii) no Default or Event of Default shall have occurred and be continuing, (iv) in computing any tax savings actually realized by the Lessor for purposes of this Section 10.06, the Lessor shall be deemed first to have utilized all deductions and credits available to it otherwise than by reason of any such Loss or payment to the Lessee and (v) any loss of any tax savings subsequent to the year of realization by the Lessor shall be treated as a Loss subject to indemnification in accordance with the provisions of Section 10.04 and (b) if the Lessor shall suffer a loss of the ACRS Deductions or the Investment Credit which shall not result in the Lessee being required to make payment to the Lessor provided for in Section 10.04 and the Lessee shall then claim the ACRS Deductions or the Investment Credit and actually realize a Federal income tax savings, the Lessee shall pay to the Lessor an amount equal to the sum of such Federal income tax savings actually realized by the Lessee plus any additional Federal income tax savings actually realized as the result of any payment made pursuant to this sentence when, as, if and to the extent such Federal income tax savings shall actually be realized.

SECTION 10.07. Determination of Payments. Whenever it may be necessary for purposes of this Article X to determine (i) whether the Lessor shall have suffered a Loss, (ii) the amount of any Loss suffered by the Lessor or (iii) the amount of any payment required to be made under this Article X by the Lessee, such determination shall be made on the assumptions that (A) the Federal income taxes of the Lessor shall be payable at a marginal effective rate of 50% (the "Effective Rate") and (B) in computing its Federal income tax liability, the Lessor can currently fully utilize the tax benefits which shall be the subject of such Loss against taxes payable at the Effective Rate. The determina-

tion of the amount payable to or by the Lessor under this Article X shall be made in the first instance by the Lessor who shall furnish the Lessee with a notice setting forth in reasonable detail the computations and methods used in computing such amount and, if requested by the Lessee, such determination shall be verified by a firm of independent public accountants of recognized standing selected by the Lessee and acceptable to the Lessor. The costs of such verification shall be borne by the Lessee. Such amount shall be payable not later than 10 days after written demand made at any time after the date the Loss shall occur or shall be deemed to occur.

SECTION 10.08. Contests. In the event a claim shall be made by the Internal Revenue Service which, if successful, would result in a Loss for which the Lessee would be required to indemnify the Lessor, the Lessor hereby agrees to take such action in connection with contesting such claim as the Lessee shall reasonably request in writing from time to time, provided that (i) within 30 days after notice by the Lessor to the Lessee of such claim, the Lessee shall request that such claim be contested, (ii) the Lessor shall control all proceedings taken in connection with such contest and, at its sole option, may pursue or forego any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service in respect of such claim and may, at its sole option, either pay the tax claimed and sue for a refund or contest the claim in any permissible forum considering, however, in good faith such request as the Lessee shall make concerning the most appropriate forum in which to proceed, (iii) prior to taking such action, the Lessee shall have furnished the Lessor with an opinion of independent tax counsel agreed upon by the Lessee and the Lessor to the effect that a reasonable basis exists for such contest, (iv) the Lessee shall have indemnified the Lessor in a manner satisfactory to it for any liability or loss which the Lessor may incur as the result of contesting such claim, on an after-tax basis, and shall have agreed to pay the Lessor on demand all costs and expenses which the Lessor may incur in connection with contesting such claim, including, without limitation, (A) reasonable attorneys', accountants' and investigatory fees and disbursements, and (B) the amount of any interest, penalty, fine or addition to tax which may ultimately be payable as the result of contesting such claim (to the extent not otherwise indemnified under this Section 10.08), and (v) if the Lessor shall determine to pay the tax claimed and sue for a refund, the Lessee will provide the Lessor with sufficient funds, on an interest free basis, to pay the tax. If any such claim referred to above shall be made by the Internal Revenue Service and the Lessee shall have reasonably requested the Lessor to contest such claim as above provided and shall have duly complied with all of the terms of this paragraph, the Lessee's liability for indemnification shall become fixed upon final determination of the liability of the Lessor. At such time the Lessee shall become obligated for the payment of any indemnification

hereunder resulting from the outcome of such contest, and the Lessor shall become obligated to pay to the Lessee any refund received. If in connection with such final determination the Lessee receives a refund of tax, any interest also received by the Lessor and fairly attributable to such refund of tax will be paid over to the Lessee. In the case of any such claim referred to above, the Lessor agrees promptly to notify the Lessee in writing of such claim (but the failure to provide such notice shall not affect the Lessee's obligations hereunder to the Lessor), agrees not to make payment of such claim for at least 30 days after the giving of such notice and agrees to give to the Lessee any relevant information relating to such claim which may be particularly within the knowledge of the Lessor, and otherwise to cooperate with the Lessee in good faith in order to contest effectively any such claim and, if and to the extent agreeable to the Lessor, to permit the Lessee to participate in the proceedings relating to such claim. Nothing contained in this Section 10.08 shall require the Lessor to contest a claim which it would otherwise be required to contest pursuant to this Section 10.08 if the Lessor shall waive the payment by the Lessee of any amount that might otherwise be payable by the Lessee under Section 10.04 by way of indemnity in respect of such claim. Without the prior written consent of the Lessee, the Lessor shall not enter into a settlement or other compromise with respect to any claim which it would otherwise be required to contest pursuant to this Section 10.08 unless the Lessor shall, pursuant to the preceding sentence, waive the payment by the Lessee of any amount that might otherwise be payable by the Lessee under Section 10.04 by way of indemnity in respect of such claim.

If, after actual receipt by the Lessor of an amount paid by the Lessee and attributable to a Loss, the extent of such Loss shall be established by the final judgment or decree of a court or administrative agency having jurisdiction thereof or a settlement with the consent of the Lessee, the Lessor shall, within 30 days, pay to the Lessee an amount which, when reduced by any net Federal income tax savings resulting from the making of such payment, shall be equal to all or the portion of any refund received by the Lessor with respect to such Loss (together with any interest paid thereon by the taxing authority) plus simple interest at the rate which shall be applicable under Section 6621 of the Code from time to time from the date of actual collection by the Lessor of such refund (and any such interest thereon) to the date of payment by the Lessor to the Lessee hereunder. Notwithstanding the foregoing, the Lessor shall not be required to make any payment hereunder (and no interest shall accrue) (i) to the extent such payment (minus any such interest attributable thereto not previously reimbursed by the Lessee) would exceed the amount previously paid by the Lessee to the Lessor with respect to the Loss giving rise to such refund, (ii) before

such time as the Lessee shall have made all payments or indemnities then due pursuant to this Agreement and (iii) so long as a Default or an Event of Default shall have occurred and be continuing.

SECTION 10.09. Adjustments to Termination Payments.

In the event any payments shall be due to the Lessor under this Article X, the schedule of Termination Payments set forth in Exhibit C shall be appropriately adjusted. If a Termination Occurrence or any other event giving rise to a Termination Payment or an amount determined by reference to Exhibit C hereto occurs and as a result thereof the loss of the ACRS Deduction or the Investment Credit incurred by the Lessor exceeds that assumed in the computation of the applicable Termination Payment, the Termination Payment shall be appropriately increased based on the same assumptions on which the Termination Payments were originally calculated.

SECTION 10.10. Affiliated Group.

For purposes of this Article X, the term "Lessor" shall include any affiliated group (and any member thereof) of which the Lessor is or shall become a member if consolidated returns are or shall be filed for such affiliated group for Federal income tax purposes.

SECTION 10.11. Prepayment of Note.

In the event that any treasury regulation, whether temporary, proposed or final, or any Internal Revenue Service revenue ruling or other official pronouncement, or court decision, issued after the date hereof, in the reasonable opinion of the Lessor, shall allow the Lessor, to claim a cost recovery deduction for any item of Equipment which is "RRB replacement property" as defined in Section 168(f)(3)(B) of the Code in an amount equal to 100 percent of the Purchase Price for such item in 1981, and if the Lessor should so claim such a cost recovery deduction in respect thereof, the Lessor shall so notify the Lessee, and not less than 30 days after giving such notice, shall prepay the Note in immediately available funds in an amount equal to one-half of the net tax savings realized thereby. In such event, such prepayment shall be applied pro rata to all remaining principal installments based on the respective amounts of such installments scheduled to become due on all remaining Payment Dates, appropriate adjustments to the remaining payments of Rent and schedule of Termination Payments shall be made, and such prepayment shall be included within the scope of Article IX and this Article X.

ARTICLE XI

MISCELLANEOUS

SECTION 11.01. Notices.

Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Lessor, at

CBS Inc.
51 West 52nd Street
New York, N.Y. 10019

Attention of Treasurer;

(b) if to the Lessee, at

Consolidated Rail Corporation
1334 Six Penn Center Plaza
Philadelphia, Pennsylvania 19104

Attention of Treasurer;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

SECTION 11.02. Failure To Exercise Rights is Not Waiver. The failure of either party hereto to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

SECTION 11.03. Severability. Any provision of this Agreement which shall be prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 11.04. Effect of Modification of this Agreement. This Agreement exclusively and completely states the rights of the Lessor and the Lessee with respect to the Equipment and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor and the Lessee.

SECTION 11.05. Third Party Beneficiaries. Nothing in this Agreement shall be deemed to create any right in any person not a party hereto (other than Indemnified Persons, the entities referred to in Section 10.10 and the permitted successors and assigns of a party) and this Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

SECTION 11.06. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York.

SECTION 11.07. Survival. All indemnities, covenants, agreements, representations and warranties made in this Agreement and in any certificates or other documents delivered pursuant hereto shall survive the execution of this Agreement and shall benefit the respective permitted successors and assigns of the parties hereto, and such warranties and representations and all matters set forth in such certifi-

cates shall be deemed to have been material and relied upon by each party hereto as being true and correct on the date or dates as of which such warranties and representations are made and such certificates delivered, regardless of any investigation which may have been made by any party or on its behalf. All indemnities, covenants, agreements, representations and warranties of the Lessee made in Articles VIII, IX and X hereof and in any certificates or other documents delivered pursuant thereto and all accrued rights and claims under this Agreement shall also survive the expiration or termination of the Lease Term with respect to each item of Equipment. The Lessee's obligations under the indemnities provided for in this Agreement shall be those of a primary obligor whether or not the Lessor or any other Indemnified Person or entity referred to in Section 10.10 shall also be indemnified with respect to the same matter under the terms of any other document or instrument, and the Lessor and any other Indemnified Person or entity referred to in Section 10.10 may proceed directly against the Lessee without first seeking to enforce any other right of indemnification. All payments of indemnity made pursuant to Articles VIII, IX and X shall be made by the Lessee in immediately available funds. The Lessee will pay to each Indemnified Person, on demand, interest at the Overdue Rate on any amount of indemnity not paid when due pursuant to Article VIII or IX until the same shall be paid and will pay to any entity referred to in Section 10.10 interest at the Overdue Rate on any amount of indemnity not paid when due pursuant to Article X until the same shall be paid.

SECTION 11.08. Assigns. All rights of the Lessor hereunder shall inure to the benefit of the assigns of the Lessor. Except as provided in Sections 7.06 and 7.07 hereof, neither this Agreement nor the Note nor any interest therein may be assigned by the Lessee without the consent of the Lessor.

SECTION 11.09. Payments on Nonbusiness Days. If any date on which any amount otherwise payable pursuant to this Agreement or the Note is not a business day, such amount shall be payable on the next business day, and no interest shall be payable thereon for the period from and after the scheduled date for payment thereof to such next business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, shall be authorized or obligated to remain closed.

SECTION 11.10. Expenses. The Lessor agrees that, whether or not the transactions herein contemplated shall be consummated, the Lessor will pay or cause to be paid all the Lessor's costs and expenses in connection with the preparation and execution of this Agreement, including, without limitation, the fees and disbursements of Messrs. Lee, Toomey & Kent and Messrs. Cravath, Swaine & Moore, and will protect, indemnify and hold the Lessee harmless from and against any fees of Merrill Lynch Leasing Inc. or any of its affiliates. The Lessee agrees that, whether or not the transactions herein contemplated shall be consummated, the Lessee will pay or cause to be paid all the Lessee's costs and expenses in connection with the preparation and execution of this Agreement, and will protect, indemnify and hold the Lessor harmless from and against any fees claimed by any broker or finder (other than Merrill Lynch Leasing Inc.) with which the Lessee has had any dealings.

SECTION 11.11. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

CBS INC.

by

Carl Anton Muller

Title: Vice President and
Treasurer

[Seal]

CONSOLIDATED RAIL CORPORATION,

by

J. W. B.

Title: Vice President and
Treasurer

[Seal]

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this 13th day of November 1981 before me personally appeared Carl Anton Muller, to me personally known, who, being by me duly sworn, says that he is the Vice President and Treasurer of CBS INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Charles A. DePalma
Notary Public

[Notarial Seal]

My Commission expires

CHARLES S. DePALMA
Notary Public, State of New York
No. 31-5990695
Qualified in New York County
Commission Expires March 30, 1982

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this 13th day of November 1981 before me personally appeared H. W. Brown, to me personally known, who, being by me duly sworn, says that he is the Vice President and Treasurer of CONSOLIDATED RAIL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Charles L. DePalma
Notary Public

[Notarial Seal]

My Commission expires

CHARLES S. DePALMA
Notary Public, State of New York
No. 31-5990695
Qualified in New York County
Commission Expires March 30, 1982

Description of Equipment

Items of Equipment

All of the reconstructions to locomotives and freight cars described in the attached Supplement to this Exhibit A and the supporting documents thereto, placed in service between January 1, 1981, and September 30, 1981, both inclusive.

Lessee's Basis and Purchase Price

For each item of Equipment, the Lessee's Basis and the Purchase Price are as set forth in the above-referenced Supplement to this Exhibit A and the supporting documents thereto and in the aggregate is \$39,135.650.00.

Asset Guideline Class

The ADR present class life ("midpoint") of each item of Equipment is not less than 14 years.

Date Placed in Service

Each item of Equipment was placed in service between January 1, 1981, and September 30, 1981, as set forth in the above-referenced Supplement and supporting documents.

ACRS Class Life

The ACRS class life for each item of Equipment is five years.

THIS NONRECOURSE NOTE SHALL NOT BE TRANSFERABLE
(OTHER THAN TO THE MAKER HEREOF) BY THE PAYEE HEREOF

NONRECOURSE PROMISSORY NOTE

\$27,394,955.00

New York, New York
November 13, 1981

FOR VALUE RECEIVED, CBS INC., a New York corporation (the "Maker"), DOES HEREBY PROMISE to pay to CONSOLIDATED RAIL CORPORATION, a Commonwealth of Pennsylvania corporation (the "Payee"), the principal amount of Twenty-seven million three hundred ninety-four thousand nine hundred fifty-five and 00/100 Dollars (\$27,394,955.00) in installments as provided below, with interest on the unpaid balance of such principal amount at an interest rate of 19-1/2% per annum from the date hereof until such unpaid balance shall become due and payable (whether at the stated maturity or on a date fixed for any installment payment or for any required prepayment), in installments as provided below. This Note has been executed and delivered pursuant to, and is subject to the limitations contained in, the Transfer and Lease Agreement dated as of November 13, 1981 (the "Agreement"), between the Payee and the Maker. All undefined capitalized terms used herein shall have the meanings specified in the Agreement.

The principal amount of and interest on this Note shall be payable as set forth in Appendix A attached hereto, in 42 consecutive semiannual installments on each Payment Date, commencing May 13, 1982, and ending November 13, 2002; provided, however, that this Note is subject to mandatory prepayment in whole or in part as provided in Sections 2.04 and 5.03 of the Agreement. If any Payment Date is not a business day (as defined in Section 11.09 of the Agreement), the payment of principal and interest otherwise then due shall be made on the next business day.

All amounts payable pursuant to this Note shall be payable solely out of, and payment shall be conditioned on the simultaneous receipt of, the Rent and Termination Payments required to be made by the Payee pursuant to the Agreement; and the Payee by its acceptance of this Note agrees (a) that it will look solely to the Rent and Termination Payments to the extent available for distribution to the Payee and that the Maker shall not be personally liable to the Payee for any

amounts payable under this Note and (b) that the obligation to make payments of principal and interest due hereunder is conditioned on and may be set off against the obligation of the Payee to make payments of Rent and Termination Payments under the Agreement. For purposes of the foregoing sentence, the Maker hereby authorizes the Payee, on each Payment Date, to endorse on Appendix B attached hereto the date and amount of each such payment, such endorsement to be conclusive evidence of the making of the payment of Rent or Termination Payment (in the case of a Termination Payment, to the extent such payment may be set off pursuant to Section 2.04 of the Agreement), as the case may be, by the Payee and the making of any payment required to be made hereunder by the Maker. No interest shall be payable on any overdue payment of principal of, or interest on, this Note.

This Note is made and delivered in the State of New York and shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the Maker has caused this Note to be duly executed and delivered.

CBS INC.,

by

Title: Vice President and
Treasurer

APPENDIX A TO NOTE

Schedule of Payments Due on Note

<u>Payment Date</u>	<u>Principal Due</u>	<u>Interest Due</u>	<u>Total Amount Due</u>
May 13, 1982	\$ 54,764.52	\$2,671,008.46	\$2,725,772.98
November 13, 1982	60,104.06	2,665,668.92	2,725,772.98
May 13, 1983	65,964.20	2,659,808.78	2,725,772.98
November 13, 1983	72,395.71	2,653,377.27	2,725,772.98
May 13, 1984	79,454.30	2,646,318.68	2,725,772.98
November 13, 1984	87,201.09	2,638,571.89	2,725,772.98
May 13, 1985	95,703.20	2,630,069.78	2,725,772.98
November 13, 1985	105,034.26	2,620,738.72	2,725,772.98
May 13, 1986	115,275.10	2,610,497.88	2,725,772.98
November 13, 1986	126,514.43	2,599,258.55	2,725,772.98
May 13, 1987	138,849.59	2,586,923.39	2,725,772.98
November 13, 1987	152,387.42	2,573,385.56	2,725,772.98
May 13, 1988	167,245.20	2,558,527.78	2,725,772.98
November 13, 1988	183,551.61	2,542,221.37	2,725,772.98
May 13, 1989	201,447.89	2,524,325.09	2,725,772.98
November 13, 1989	221,089.06	2,504,683.92	2,725,772.98
May 13, 1990	242,645.25	2,483,127.73	2,725,772.98
November 13, 1990	266,303.17	2,459,469.81	2,725,772.98
May 13, 1991	292,267.73	2,433,505.25	2,725,772.98
November 13, 1991	320,763.84	2,405,009.14	2,725,772.98
May 13, 1992	352,038.31	2,373,734.67	2,725,772.98
November 13, 1992	386,362.05	2,339,410.93	2,725,772.98
May 13, 1993	424,032.36	2,301,740.62	2,725,772.98
November 13, 1993	465,375.52	2,260,397.46	2,725,772.98
May 13, 1994	510,749.64	2,215,023.34	2,725,772.98
November 13, 1994	560,547.73	2,165,225.25	2,725,772.98
May 13, 1995	615,201.15	2,110,571.83	2,725,772.98
November 13, 1995	675,183.27	2,050,589.71	2,725,772.98
May 13, 1996	741,013.64	1,984,759.34	2,725,772.98
November 13, 1996	813,262.48	1,912,510.50	2,725,772.98
May 13, 1997	892,555.58	1,833,217.40	2,725,772.98
November 13, 1997	979,579.77	1,746,193.21	2,725,772.98
May 13, 1998	1,075,088.81	1,650,684.17	2,725,772.98
November 13, 1998	1,179,909.98	1,545,863.00	2,725,772.98
May 13, 1999	1,294,951.22	1,430,821.76	2,725,772.98
November 13, 1999	1,421,208.98	1,304,564.00	2,725,772.98
May 13, 2000	1,559,776.87	1,165,996.11	2,725,772.98
November 13, 2000	1,711,855.14	1,013,917.84	2,725,772.98
May 13, 2001	1,878,761.03	847,011.95	2,725,772.98
November 13, 2001	2,061,940.26	663,832.72	2,725,772.98
May 13, 2002	2,262,979.46	462,793.52	2,725,772.98
November 13, 2002	2,483,620.12	242,152.99	2,725,773.11

Endorsement of Payments Due on Note

<u>Payment Date</u>	<u>Amount of Rental Payment</u>	<u>Amount of Casualty Payment Applied to Note</u>	<u>Application to Principal</u>	<u>Application to Interest</u>	<u>Name, Signature and Title of Officer Making Endorse- ment of Payment</u>
June 2, 1982					
December 2, 1982					
June 2, 1983					
December 2, 1983					
June 2, 1984					
December 2, 1984					
June 2, 1985					
December 2, 1985					
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June 2, 1992					
December 2, 1992					
June 2, 1993					
December 2, 1993					
June 2, 1994					
December 2, 1994					
June 2, 1995					
December 2, 1995					
June 2, 1996					
December 2, 1996					

EXHIBIT C

Formula Termination Payments

<u>Payment Date</u>	<u>Total Formula Termination Payment</u>	<u>Amount to Be Applied to Principal of Note</u>	<u>Amount of Cash Payment to Lessor</u>
May 13, 1982	88.3870%	69.8601%	18.5269%
November 13, 1982	94.2474	69.7065	24.5409
May 13, 1983	98.4445	69.5379	28.9066
November 13, 1983	102.6143	69.3530	33.2613
May 13, 1984	104.9145	69.1500	35.7645
November 13, 1984	106.8162	68.9271	37.8891
May 13, 1985	106.6894	68.6826	38.0068
November 13, 1985	106.1851	68.4142	37.7709
May 13, 1986	105.0487	68.1196	36.9291
November 13, 1986	103.7820	67.7964	35.9856
May 13, 1987	102.4585	67.4415	35.0170
November 13, 1987	101.0631	67.0522	34.0109
May 13, 1988	99.6054	66.6249	32.9805
November 13, 1988	98.0674	66.1559	31.9115
May 13, 1989	96.4610	65.6411	30.8199
November 13, 1989	94.7646	65.0762	29.6884
May 13, 1990	92.9931	64.4562	28.5369
November 13, 1990	91.1207	63.7757	27.3450
May 13, 1991	89.1659	63.0290	26.1369
November 13, 1991	87.0977	62.2094	24.8883
May 13, 1992	84.9387	61.3098	23.6289
November 13, 1992	82.6521	60.3226	22.3295
May 13, 1993	80.2657	59.2392	21.0265
November 13, 1993	77.7355	58.0501	19.6854
May 13, 1994	75.0952	56.7450	18.3502
November 13, 1994	72.2922	55.3126	16.9796
May 13, 1995	69.3682	53.7406	15.6276
November 13, 1995	66.2600	52.0154	14.2446
May 13, 1996	63.0181	50.1220	12.8961
November 13, 1996	59.5672	48.0440	11.5232
May 13, 1997	55.9687	45.7632	10.2055
November 13, 1997	52.1323	43.2602	8.8721
May 13, 1998	48.1331	40.5131	7.6200
November 13, 1998	43.8625	37.4981	6.3644
May 13, 1999	39.4118	34.1893	5.2225
November 13, 1999	34.6510	30.5578	4.0932
May 13, 2000	29.6907	26.5721	3.1186
November 13, 2000	24.3751	22.1979	2.1772
May 13, 2001	18.8386	17.3973	1.4413
November 13, 2001	12.8941	12.1287	.7654
May 13, 2002	6.7042	6.3462	.3580
November 13, 2002	.0000	.0000	.0000

The Termination Value as of any Payment date with respect to an item of Equipment shall equal the percentage of the Purchase

Price of an item of Equipment set forth above opposite such Payment Date (adjusted as follows). Such percentages have been computed without regard to recapture of Investment Credit. Consequently, the percentage applicable on any Payment Date shall be increased by the percentage of the Purchase Price set forth below for the number of full years of service of such item after the Closing Date:

1. 18.5185%
2. 14.8148
3. 11.1111
4. 7.4074
5. 3.7037

November 13, 1981

CBS Inc.
51 West 52nd Street
New York, N. Y. 10019

Dear Sirs:

We are counsel to Consolidated Rail Corporation (the "Company"). As such, we are familiar with the Articles of Incorporation and the By-Laws and are generally familiar with the affairs of the Company and the actions taken by the Company in connection with certain agreements dated as of November 13, 1981 (the "Agreements") between you and the Company relating to the transfer for tax purposes only of certain Equipment, as defined therein, from the Company to you. We understand that the Company and you intend that the Agreements be characterized as leases for Federal income tax purposes pursuant to Section 168(f)(8) of the Internal Revenue Code.

For purposes of rendering this opinion, we have examined originals, or copies certified or otherwise identified to our satisfaction, of such records, documents, certificates and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. In connection therewith, we have also relied upon the opinions of the Company's in-house counsel as to certain matters covered herein.

Based upon the foregoing, it is our opinion that:

1. The Company is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania and has all requisite power and authority, corporate or other, to enter into and perform its obligations under the Agreements. The Agreements have been duly authorized, executed and delivered by the Company and, assuming due authorization, execution and delivery thereof by you, constitute legal, valid and binding agreements, enforce-

able against the Company in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally.

2. To the best of our knowledge, except as described in the Appendix hereto (i) there are no actions, suits or proceedings pending or threatened against or affecting the Company or any property rights of the Company which, if determined adversely to the Company, would materially and adversely affect the ability of the Company to perform its obligations under the Agreements, and (ii) the Company is not in default with respect to any order or decree of any court or governmental instrumentality which would materially and adversely affect the ability of the Company to perform its obligations under the Agreements.

3. None of the execution and delivery of the Agreements, the consummation of the transactions contemplated thereby or the fulfillment of, or compliance with, the terms and provisions thereof will conflict with, or result in a breach of, the terms, conditions or provisions of (i) the Articles of Incorporation or By-laws of the Company, (ii) to the best of our knowledge, any contractual obligation to which the Company is a party or by which it may be bound or to which its property or that of any of its subsidiaries may be subject (except with respect to the Amended and Restated Financing Agreement dated as of May 12, 1979, by and between the Company and the United States Railway Association, as to which a Waiver, as provided for therein, has been obtained with respect to the transactions contemplated by the Agreements) or (iii) any law or regulation or any order or decree of any court or governmental instrumentality.

Very truly yours,

PEPPER HAMILTON & SCHEETZ

By:

A Partner

November 13, 1981

CBS Inc.
51 West 52nd Street
New York, N. Y. 10019

Re: Transfer and Lease Agreement ("Agreement")
Dated as of November 13, 1981, between
CBS Inc. as Lessor and Consolidated Rail
Corporation, as Lessee.

Gentlemen:

Our firm represents Consolidated Rail Corporation ("Conrail") with respect to its current tax benefit transfer program. In that connection, we understand that Conrail has brought to your attention the provisions of Section 1154 of the Northeast Rail Service Act of 1981 (herein "NERSA"). That Section provides that:

No distribution of the assets of Conrail shall be made with respect to any claims of the United States, including the securities issued pursuant to Section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726), until all other valid claims, including loss, damage, overcharge claims, and lease claims, against Conrail have been satisfied, or provision has been made for satisfying such claims.

We have no reason to believe that any claim of CBS Inc. under the Agreement would not be a "valid claim" within the meaning of such Section.

Very truly yours,

PEPPER HAMILTON & SCHEETZ

By:

A Partner

FORM OF LESSEE'S OFFICER'S CERTIFICATE

I, H. W. Brown, the duly qualified, acting and elected Vice President and Treasurer of Consolidated Rail Corporation, a Commonwealth of Pennsylvania corporation (the "Lessee"), DO HEREBY CERTIFY, in connection with the Transfer and Lease Agreement dated as of November 13, 1981, between CBS Inc. and the Lessee (the "Agreement"); all terms which are defined therein being used herein with the meanings assigned to them therein), that:

(a) the Lessee has transferred for Tax Purposes only to CBS Inc., subject to Section 2.05 of the Agreement, the Equipment and has received the Purchase Price in accordance with Section 2.02 of the Agreement;

(b) the representations and warranties of the Lessee set forth in Sections 3.01 and 10.03 of the Agreement are true and correct on and as of the date hereof; and

(c) no event or condition has occurred and is continuing, or would result from such transfer and lease of the Equipment, which constitutes a Default or Event of Default.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of November, 1981.

H. W. Brown
Vice President and Treasurer

FORM OF CLOSING OPINION OF LESSOR'S COUNSEL

November 13, 1981

Consolidated Rail Corporation
1334 Six Penn Center Plaza
Philadelphia, Pennsylvania 19104

Dear Sirs:

As Associate General Counsel of CBS Inc. (the "Company"), I am familiar with the Certificate of Incorporation and the By-Laws and with the affairs of the Company and the actions taken by the Company in connection with the Agreement dated as of November 13, 1981 (the "Agreement"), between you and the Company relating to the transfer of certain equipment for tax purposes only from you to the Company pursuant to Section 168(f)(8) of the Internal Revenue Code.

In connection with the foregoing, I have examined originals, or copies certified or otherwise identified to my satisfaction, of such records, documents, certificates and other instruments as in my judgment are necessary or appropriate to enable me to render the opinion expressed below.

Based upon the foregoing, it is my opinion that:

1. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of New York and has all requisite power and authority, corporate or other, to enter into and perform its obligations under the Agreement. The Agreement has been duly authorized, executed and delivered by the Company and, assuming due authorization, execution and delivery thereof by you, constitutes a legal, valid and binding agreement, enforceable against the Company in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally.

2. None of the execution and delivery of the Agreement, the consummation of the transactions contemplated thereby or the fulfillment of, or compliance with, the terms, and provisions thereof will conflict with, or result in a breach of, the terms, conditions or provisions of (i) the

Certificate of Incorporation or By-laws of the Company or (ii) to the best of my knowledge, any contractual obligation to which the Company is a party or by which it may be bound or to which its property or that of any of its subsidiaries may be subject.

In connection with the foregoing opinion, I wish to point out that I am admitted to practice in the State of New York and do not hold myself out as expert in the laws of any other state. However, I have made, or caused to be made, such investigation as I have deemed appropriate with respect to the laws of other states in connection with such opinion, and nothing has come to my attention in the course of such investigation which would lead me to question the correctness of such opinion.

Very truly yours,

FORM OF LESSOR'S OFFICER'S CERTIFICATE

I, Carl Anton Muller, the duly qualified, acting and elected Vice President and Treasurer of CBS Inc., a New York corporation (the "Lessor"), DO HEREBY CERTIFY, in connection with the Transfer and Lease Agreement dated as of November 13, 1981, between the Lessor and Consolidated Rail Corporation, a Commonwealth of Pennsylvania corporation (the "Agreement"), that the representations and warranties of the Lessee set forth in Section 3.02 of the Agreement are true and correct on and as of the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand
this 13th day of November, 1981.

Carl Anton Muller
Vice President and Treasurer

12/08/81

TAX BENEFIT TRANSFER CARS & Locomotives

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Locomotives



~~Attachment A~~

Supplement to
EXHIBIT A TO
TRANSFER AND LEASE
AGREEMENT. PTD
AS OF NOV 13, 1981

12/08/81

TAX BENEFIT TRANSFER CARS

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Locomotives



12/08/81

TAX BENEFIT TRANSFER CARS

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~~CARS~~

Locomotive

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Cars

12/08/81

TAX BENEFIT TRANSFER CARS

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TAX BENEFIT TRANSFER CARS

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